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09/945,018	09/01/2001	Craig M. Janik	005532.P007	1644

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EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/945,018	Applicant(s) JANIK, CRAIG M.	
	Examiner Laura A. Grier	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-6,11-14 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-6,11-14 and 61-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The indicated allowability of claims 62-66 is withdrawn in view of the newly discovered reference(s) to Sass. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 2, 4-6, 11-14, and 61-67** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky in view of Sass, U. S. Patent 6823225.

Regarding **claim 61**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internet work server (11) for providing digital audio data via a LAN to a PC(computer) or SPU, in which, the PC and SPU constitutes as a client converter device, and, wherein the PC (figure 1, reference numbers 54, 61, 63, 59, and 57) and/or the SPU (figure 2, lines 89, 91-93) includes various memories - (col. 2, lines 1-32 and col. 3, lines 28-67, col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), which reads on receiving a portion of digital media and reads on a volatile memory wherein the SPU constitute as a conventional playback system as well. However, Janky fails to specifically disclose converting and receiving the portion of the digital media file simultaneously.

Regarding the simultaneously converting and receiving of the digital media file, in a similar field of endeavor, Sass discloses distribution and playing audio information. Sass' disclosure comprises a memory coupled to a CPU of a media player, where store data in the memory is processed to prevent interruptions of the audio output (col. 5, lines 49-64).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing a memory that buffers the audio data so that interruptions of the audio playback is prevented.

Regarding **claims 2 and 4**, Janky and Sass disclose everything claimed as applied above (see claim 61). Janky and Sass (Janky) further indicates in figures 6 and 7 the transmission of the transfer data which indicates converting the digital data into and analog electrical data, and manipulation for audio playback, which may be provided on the PC and/or SPU, wherein both includes displays and user input and output means or data command inputs (figure 1-references 65 and 67 and figure 2, references 95 and 97).

Regarding **claim 5**, Janky and Sass disclose everything claimed as applied above (see claim 2). Janky and Sass (Janky) further discloses the SPU, which is a portable hand-held storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device.

Regarding **claim 6**, Janky and Sass discloses everything claimed as applied above (see claim 3). Janky and Sass (Janky) further discloses the SPU, which is a portable hand-held storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device and/or a a portable digital assistant (PDA).

Regarding **claim 11**, Janky and Sass discloses everything claimed as applied above (see claim 61). Janky and Sass (Janky) discloses wireless local area network Access modem and

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various applicable and well known transmission protocols (col. 4, lines 24-51) which obviously indicates wireless transceiver via a wireless protocol.

Regarding **claim 13**, Janky and Sass discloses everything claimed as applied above (see claim 11). Janky and Sass (Janky) disclose the wireless local area network used for transferring data between a server and PC and/or a SPU, which obviously supports a portable electronic devices with a wireless local area network adapter.

Regarding **claim 14**, Janky and Sass discloses everything claimed as applied above (see claim 13). Janky and Sass (Janky) further discloses the SPU, which is a portable hand-held storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device and/or a a portable digital assistant (PDA).

Regarding **claim 67**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internet work server (11) for providing digital audio data via a LAN to a PC (computer) or SPU, in which, the PC and/or SPU may constitute as a client converter device, and, wherein the PC (figure 1, reference numbers 54, 61, 63, 59, and 57) and/or the SPU (figure 2, lines 89, 91-93) includes various memories - (col. 2, lines 1-32 and col. 3, lines 28-67, col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), which reads on receiving a portion of digital media and reads on a volatile memory, wherein the SPU may constitute as a conventional playback system. As well, Janky indicates the use of particular types of software that may used by the PC to control the transfer of the digital media data - (col. 2, lines 52-63, col. 5, lines 18-33, col. 6, lines 29-41, col. 8, lines 27-35). However, Janky fails to

specifically disclose converting and receiving the portion of the digital media file simultaneously.

Regarding the simultaneously converting and receiving of the digital media file, in a similar field of endeavor, Sass discloses distribution and playing audio information. Sass' disclosure comprises a memory coupled to a CPU of a media player, where store data in the memory is processed to prevent interruptions of the audio output (col. 5, lines 49-64).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing a memory that buffers the audio data so that interruptions of the audio playback is prevented.

Regarding claim 62, Janky and Sass discloses everything claimed as applied above (see claim 61). Janky and Sass (Janky) further discloses data command entry modules on the PC and on the SPU, wherein the PC and the SPU are capable to provide audio playback. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky and Sass by providing a means of detecting and activation of a button on the client device for the purpose of monitoring and/or making use aware of the playback process being in use.

Regarding claim 63-64, Janky and Sass discloses everything claimed as applied above (see claim 61). Janky and Sass (Janky) further discloses LAN access to the PC and to the SPU via the PC, which indicates establishing a communicative network connection between the client converter device, the conventional media playback system and the server, thereto; data command entry modules on the PC and on the SPU, which indicates user navigation and selecting the file for playback, therein; and streaming accordingly as taught by Sass.

Regarding claim 65, Janky and Sass discloses everything claimed as applied above (see claim 61). Janky and Sass (Janky) further discloses the transferred data including audio data, which is converted from digital to analog data for playback by the SPU or the PC, (col. 6, lines 44-51 and col. 5, lines 55-59), which indicates the claimed limitation, therein.

Regarding claim 66, Janky and Sass discloses everything claimed as applied above (see claim 61). Janky and Sass (Janky) further discloses the transferred data including audio data, which may be in a decompressed audio format useable by the SPU (col. 6, lines 22-28), which indicates the claimed limitation, therein.

Response to Arguments

4. Applicant's arguments with respect to claims 2, 4-6, 11-14, 61-67 have been considered but are moot in view of the new ground(s) of rejection.

The applicant provided remarks in respect the double patenting rejection in view of the Terminal Disclaimer. A new prior art rejection is made based on Janky in view of Sass, wherein Sass provides teaching of processing audio and providing playback simultaneously with interruptions.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura A Grier
Primary Examiner
Art Unit 2644
October 20, 2005